MOSQUITO PREVENTIVE

Capt. W. Larsen Has a New Idea.

He Thinks Little Fish Prevent the Pest's Breeding.

Gives an Instance at Kewalo. Chinese Are Destroying the Small Fishes.

Captain William Larsen, manager for E. Peck & Co., Ltd., gave an Advertiser reporter what seems to be a valuable contribution to the mosquito question. He said:

"I own a cottage down in Kewalo and the people living in it can sleep without any mosquito netting over their beds, with doors and windows closed or open. They can sit on the veranda and not be bothered a bit by the mosquitoes.

"The only reason I can give to account for there being no mosquitoes at that place is that there are three fish ponds right back of it which are teeming alive with very small fish. Probably these little fish eat up the larvae of the mosquitoes and prevent their breeding.

"Now, there's another thing in connection with these ponds which I think for the sake of the public should be stopped. Every morning a Chinaman goes to one or other of these fish ponds and drags it from end to end with a fine-meshed net. The meshes are so fine that even a tiny wriggler coudn't get through. The fish are fed to ducks.

"It's a shame to allow the Chinese to destroy small fish in this way, and if there is no law to stop it there should be. These little fish ought to be protected, especially if my theory is correct that they prevent the breeding of mosquitoes."

In this matter it is recalled that native members of the Legislature effectively blocked the passage of a Fishery Act, introduced by Senator Isenberg from a special committee, which provided against both drag nets and fine meshes.

MORTUARY REPORT FOR PAST MONTH

The mortuary report for July gives a total of 77 deaths in Honolulu in that month.

As usual the highest figure is for the youngest people. Thus twenty-two children under one year died, the next highest rate being twelve deaths of persons between twenty and thirty years of age. From ten years of age downward there were twenty-seven or nearly one-third of the total mortality. On the other hand the statistics exhibit a fair showing of longevity among the inhabitants, thus, from fifty to sixty years the deaths were nine; from sixty to seventy years, six; over seventy years, six—a total of twenty-one persons whose lives ranged from half a century to beyond the Biblical standard of three score and ten.

Reverting to infantile mortality, or the "slaughter of the innocents"—doubtless due to lack of knowledge and care with unfavorable environment—it is found that the deaths of infants under one year among Hawaiians numbered eleven, or just half the total of all nationalities.

By nationalities the deaths for July were thus distributed: Hawaiian, thirty-seven; Chinese eleven; Portuguese, five; Japanese, fifteen; U. S. A., five; others, four.

Eleven deaths were investigated and three coroners inquests held.

According to the census rating of 1900, which gave Honolulu a population of 39,306, the monthly death rate a thousand was 1.95. Only fifty-five births were reported against the seventy-seven deaths.

Following is the summary of fatal causes:

Febrile 2, diarrheal 4, venereal 1, septic 1, dietetic 2, constitutional 19, developmental 3, nervous 9, circulatory 3, respiratory 8, digestive 13, urinary 3, osseous and integumentary 2, accident and violence 7.

"ME AND GLUE"

If there is anything in the world that is sticky, it is glue. Now, glue is made of a combination of "things" the principle ingredient being cow's hoofs. Everyone knows that all cows were calves once and of course behaved as a good little calf should behave.

Now men—some men—have been what is called the "human calf" and also have behaved as a good little human calf should behave. Both calves kick. They kick because something lights on them when they least expect it and then they try to kick it into eternal quietude:—and they land against nothing but the wide expanse of atmosphere.

Let the "human calves" kick up just because the Douglas Patent Closet sells for $25.00, is guaranteed, and is sold.—not kept. The product of the calf's foot (the real calf's foot) is a sticker; so is the Douglas. Hence, "me and glue!"

FERRIS IS IN SHADOW OF DEATH

(Continued from page 1.)

claimed to be secured to him by the sixth amendment, of having the aid and advice of counsel in such impanelment, (b) that he had not been arraigned upon the charge presented in the indictment, and had made no plea thereto, and that there was an untrue endorsement upon the indictment to the effect that he had pleaded guilty thereto, and (c) that he had been deprived of a trial of his cause before the regular jury for the August, 1902, term of the court and had been compelled to proceed to trial before another jury."

The court quotes the rules relating to grand juries and comments thus:

The indictment against the defendant was found by the grand jury impaneled for the August term, 1902, of the Circuit Court of the First Circuit. At the time of the impanelment of that jury, the defendant was in jail, held to answer for the offense for which he was subsequently indicted. He made no request for leave to be present at the impanelment. No cause of challenge is shown or claimed to have existed.

The right to challenge a grand jury panel or an individual juror did not exist at common law but is statutory only. In this Territory it is given by rule of court, and in order to avail must be exercised before the jury retires. The privileges so granted by the rule may be exercised or not by the accused at his option and if he knows of no sufficient cause of challenge or for any other reason sees fit to waive the privilege, he may do so. If the accused expresses no desire to challenge, the court may properly regard the silence as a waiver. The fact that the defendant was in jail at the time of the impanelment does not, in our opinion, alter the case.

COUNSEL NOT DENIED.

With regard to the exception that the defendant was not represented by counsel in preliminary proceedings, such as impanelment of the grand jury, the opinion is in part as follows:

The sixth amendment provides that "in all criminal prosecutions, the accused shall enjoy the right * * * to have the assistance of counsel for his defense." Assuming that this applies not only to the actual trial but as well to preliminary proceedings including the impaneling of the grand jury, still the defendant was not denied the right in question. The constitutional provision left him at liberty either to appear in person or to employ counsel, as he might see fit to do. Of itself it placed no obligation on the Territory to provide him with counsel. He did not signify a desire to be represented by counsel and was not refused permission to do so.

It is pointed out that as soon as the court was informed of the arraignment, an assignment of counsel was made.

ENDORSEMENT NOT MISLEADING.

One exception refers to the following endorsement on the back of the indictment:

"Plea: May 22. Plea of not guilty. Upon motion of C. F. Reynolds, Esq., it is ordered plea of guilty be withdrawn, and continued until Friday, May 23, at 10 a. m." (Signed) M. T. Simonton, Clerk. "May 27. Deft. pleads not guilty. Case continued until Aug. 1902 Term to be set." (Signed) M. T. Simonton, Clerk.

The court comments:

It is contended that this endorsement might have misled some juror into the belief that the defendant had made a formal admission of guilt. We do not regard this as possible. The note is a brief one, occupying but a very few lines in consecutive order. If any juror read the words, "it is ordered plea of guilty be withdrawn," he must have read the whole note; and, so read, it is entirely clear that the absence of the word not was a mere clerical error and that at no time was a plea of guilty entered.

Next the court settles that E. A. Douthitt, as deputy of the Attorney-General, was fully authorized to present the indictment in court.

The following extracts show other findings of the Supreme Court:

The objection with reference to the trial jury has been abandoned. We find in the record no cause for sustaining it.

RULINGS HOLD WATER.

Exceptions 2 to 27 inclusive and 29 are to rulings made during the trial upon objections to testimony. We have carefully examined the record with reference to them all, including nine which have been expressly abandoned, but can find nothing to require or to justify a reversal of the verdict. In most of them the rulings were clearly correct. Perhaps in one or two instances a different ruling might properly have been made, but the error, if any, was not prejudicial.

SEEMS FRIVOLOUS.

Exception 28. At the close of the case for the prosecution, the defendant moved to dismiss the indictment and for a directed verdict on the grounds named in exception 1, already disposed of, and on the further ground that there was no evidence to connect the defendant with the commission of the crime or to show that the deceased was John Watson or that the deceased met his death from a wound inflicted by a knife or any other instrument in the hands of the defendant or from any other wound received at the hands of the defendant. Were this case of a less serious nature, we would be inclined to characterize this motion and exception, in so far as it relates to the alleged lack of evidence, as frivolous; but mindful of the gravity of the charge and of the sentence we have carefully read the transcript of the evidence.

STORY OF THE CRIME.

We have no hesitation in saying that a complete prima facie case was established by the prosecution and that the motion was properly denied. The evidence adduced by the prosecution was such as, standing by itself, to have amply justified the jury in finding the following as facts: that at about eight o'clock on the evening of April 16, 1902, the defendant was standing on the front veranda of the lodging house of one Meyers situate on Queen street in this city, talking to Meyers and perhaps others about horses; that John Watson, the deceased, then approached from without and asked who was talking about horses or who it was that said he could ride horses or some similar question and that thereupon an argument ensued between him and the defendant on the subject, Watson standing at the head of the steps on the left side going up, leaning against the railing and with both hands behind his back, and Ferris standing one step lower on the opposite side of the steps and about four or five feet from Watson; that during the conversation, which lasted only a few minutes, Ferris said that Watson had called him a son of a —— some days before, that Watson denied this, that Ferris repeated his assertion and asked Watson, "Did you mean it?" That Watson at first remained silent but, Ferris insistently repeating the question, finally said, "Well, if I did call you a son of a —— I did mean it;" that without warning Ferris immediately dealt Watson, who was still standing in the position already described, a heavy blow on the left side in the region of the chest; that Watson staggered, walked back a few steps towards the body of the house and then forward again and fell, one Daniel Smith catching him as he fell, blood issuing from a wound in Watson's left side and from his mouth; that a few moments later Watson was dead; that immediately after the assault Ferris left the spot and a few moments later the premises and ran away and was not found, although diligent search was made for him by the police, until the next day; that the wound was caused by a knife wielded by Ferris and that Watson's death was caused by the wound so inflicted and was not due to any other cause; and that about eight days prior to the date of the assault Ferris, pointing to Watson who was some distance away, had said to one Blackwell, a witness for the prosecution, "See that son of a —— I will fix him yet." Upon the evidence then before it the jury would have been justified in finding that the killing was committed not in the heat of passion but in cold blood and with premeditated malice aforethought.

SELF-DEFENSE.

Exception 30 is to the verdict on the ground that it is contrary to the law and the evidence and the weight of the evidence. This is sufficiently disposed of by what is said concerning exception 28. It may be added, however, that the defendant took the stand in his own behalf and admitted that, at the time and place already stated, he stabbed John Watson, the deceased, with a knife similar to that introduced in evidence by the prosecution. His claim was that he did so in self-defense, that during the conversation at the Meyers house Watson had suddenly come towards him and grabbed him by the shirt bosom with his left hand tearing the shirt, at the same time having his right hand in his hip pocket, and that as Watson took hold of him he, Ferris, thought his life was in danger, drew the knife and dealt Watson the blow. But the overwhelming weight of the evidence was against the defendant's version of the occurrence. The evidence was clearly sufficient to support the verdict.

LIQUOR IN JURY ROOM.

During the evening [between Sept. 4 and 5, when the jury occupied as a bedroom what is now Judge De Bolt's courtroom, and two or three adjoining rooms, including Judge Gear's chambers, for lounging and other purposes] some of the members of the jury drank beer, not exceeding two glasses each, furnished by one of their number. No evidence was adduced tending to show that any of the jurors became intoxicated or was under the influence of the liquor so used and each of the jurors deposed on oath that none of them was thus affected. The trial judge in overruling the motion evidently found, and we think the finding was correct, that the use of the liquor did not affect the consideration of the case or influence the verdict. While the use of intoxicating liquor by a jury during the trial of a capital case, except in instances of absolute necessity, is deserving of severe censure and condemnation, such use is not of itself, where the liquor is not furnished by one of the parties to the cause, necessarily a ground for the granting of a new trial. The material inquiry in such cases is whether the defendant was prejudiced thereby, in other words, whether the use was such as to affect the mind of any of the jurors and thus deprive the defendant of the benefit of the condition of mind of each and all of the jurors to which he is entitled; and if it appears that the defendant was not prejudiced, the verdict can not be reversed. This is the modern view, shared in by the great majority of courts. [Decisions of many States are here quoted.]

AMENDMENTS PROPER.

The opinion finds no cause for attributing error to the trial court in its causing the clerk's minutes to be amended where they were defective. "Not only was it competent for the trial court to make its record conform to the facts, but it was its duty to do so," the opinion quotes authorities for holding.

CONCLUSION.

The opinion concludes thus:

Every one of the twenty-two instructions requested by the defendant was given, with an amendment to one only, and that a correct amendment. No exception was noted to any part of the charge.

The exceptions are overruled.

Attorney-General Andrews and W. S. Fleming for the prosecution; E. C. Peters and E. A. Douthitt for the defendant.

At a meeting of the Yacht Club yesterday it was decided that the races on Saturday should start at 2:30 p. m., with a preparatory gun fifteen minutes earlier.